

**REMARKS**

In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject Application.

Applicant notes that between the dates of about August 15-31, 2005, Applicant and the Examiner informally discussed the present case via the telephone and voicemail. The present rejection over the art of record was discussed for the pending claims. An amendment was proposed and Applicant sent a fax to the examiner containing a proposed claim amendment. The fax is now part of the application record.

**Rejection of the Claims**

In the Final Office Action mailed July 14th, 2005, claims 1-4, 17-20, 33-36 and 49 were rejected for double patenting. Claims 1-4 were rejected under 35 U.S.C. § 102(e) as being anticipated. Claims 17-20, 33-36 and 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable.

Claims 1, 17, and 33 are amended. No claims are canceled. Claims 50-51 are added. Claims 1-4, 17-20, 33-36, and 49-51 remain in the Application for consideration.

**CLAIM REJECTIONS – DOUBLE PATENTING**

Claims 1-4, 17-20, 33-36 and 49 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of US Patent No. 6,118, 817.

Applicant acknowledges the double patenting rejection and is willing to file a terminal disclaimer at such a time as the double patenting rejection remains as the sole claim rejection for otherwise allowable claims.

#### CLAIM REJECTIONS §102

Claims 1-4 are rejected under §102 as being anticipated by US Patent No. 5,978, 544 to Shimada et al (hereinafter, "Shimada").

**Claim 1** is directed to method for encoding a motion video signal and is amended to recite (amendment shown in *bold italics*):

- determining a desired size for a first frame of the motion video signal;
- encoding the first frame of the motion video signal to form an encoded frame;
- determining an encoded size of the encoded frame;
- comparing the encoded size to the desired size;
- adjusting an encoding parameter such that encoding the first frame according to the encoding parameter as adjusted would form a different encoded frame having a size closer to the desired size than the encoded size is to the desired size, and wherein the *adjusting is based at least in part on a damping factor which reduces overcorrection of the encoding parameter*, and
- encoding a second frame of the motion video signal according to the encoding parameter as adjusted.

1           These limitations are not described or taught by the art of record and are  
2 supported by the specification as originally filed. Accordingly, Applicant  
3 respectfully requests that the §102 rejections of claim 1 be withdrawn.  
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6           **Claims 2-4** depend from claim 1, and at least based upon the limitations of  
7 claim 1 described above, Applicant respectfully requests that the §102 rejection of  
8 claims 2-4 be withdrawn.  
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11           **CLAIM REJECTIONS §103**

12           Claims 17-20, 33-36 and 49 are rejected under §103 as being unpatentable  
13 over US Patent No. 5,978, 544 to Shimada et al (hereinafter, "Shimada") in view  
14 of US Patent No. 5,815,217 to Kumazawa et al (hereinafter, "Kumazawa").  
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16           **Claims 17 and 33** are amended to recite limitations similar to those  
17 described above in relation to claim 1 which are not taught or suggested by the art  
18 of record. Accordingly, Applicant respectfully requests that the §103 rejections of  
19 claims 17 and 33 be withdrawn.  
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21           **Claims 18-20, 34-36 and 49** depend from independent claims 1, 17 and 33.  
22 At least for the reasons described above in relation to the above mentioned  
23 independent claims, Applicant respectfully requests that the §103 rejection of  
24 claims 18-20, 34-36 and 49 be withdrawn.  
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1 New **Claim 50** is direct to a method, and recites:

- 2       • determining a desired size for a first frame of the motion video  
3       signal;  
4       • encoding the first frame of the motion video signal to form an  
5       encoded frame;  
6       • determining an encoded size of the encoded frame;  
7       • comparing the encoded size to the desired size;  
8       • adjusting an encoding parameter such that encoding the first  
9       frame according to the encoding parameter as adjusted would  
10      form a different encoded frame having a size closer to the desired  
11      size than the encoded size is to the desired size, and wherein the  
12      encoding analyzes both a first encoding adjuster and a second  
13      different encoding adjuster; and  
14      • encoding a second frame of the motion video signal according to  
15      the encoding parameter as adjusted.

16       New **Claim 51** depends from claim 50, and recites wherein the first  
17      encoding adjuster comprises a primary open loop rate control adjuster and the  
18      second encoding adjuster comprises a secondary closed loop rate control adjuster,  
19      and wherein a higher weight is given to the secondary closed loop rate control  
20      adjuster.  
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1 The limitations of new claims 50-51 are not described or taught by the art of  
2 record and are supported by the specification as originally filed. Accordingly,  
3 Applicant respectfully requests allowance of claims 50-51.  
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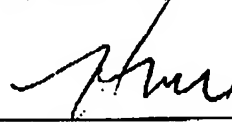
5 **Conclusion**

6 Applicant submits that the above pending claims are in condition for  
7 allowance. Applicant respectfully requests reconsideration and prompt issuance of  
8 the present Application. Should any issue remain that prevents immediate issuance  
9 of the Application, the Examiner is encouraged to contact the undersigned attorney  
10 to discuss the unresolved issue.  
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12 Respectfully Submitted,

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16 Dated: 9/9/05

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